

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BONNERS FERRY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR REVISIONS TO BONNERS FERRY CITY CODE TITLE ELEVEN, CHAPTER THREE, CHAPTER NINE, CHAPTER TWELVE AND APPENDIX A, DEFINITIONS. CHAPTER THREE MODIFICATIONS ADDRESS STANDARDS FOR NON-CONFORMING STRUCTURES AND NON-CONFORMING STRUCTURES AND USES IN COMBINATION; CHAPTER NINE MOVES LANGUAGE RELATED TO USES TO CHAPTER TWELVE AND ADOPTS NEW NUMBERING FOR REMAINING LANGUAGE; CHAPTER TWELVE ESTABLISHES STANDARDS OF SPECIFIC USES CHAPTER, PROVIDING FOR HOME-BASED BUSINESSES TIER 1 AND TIER 2 AND IN-HOME DAY CARE STANDARDS AND MOVING CERTAIN STANDARDS FROM CHAPTER NINE TO CHAPTER TWELVE; APPENDIX B AMENDS THE RESIDENTIAL AND COMMERCIAL USE TABLES RELATING TO DAYCARES AND HOME BASED BUSINESSES; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Idaho Local Land Use Planning Act, Title 67, Chapter 65, and the Idaho Municipal Corporations title 50, Chapter 3 and 9 provide authority for the City of Bonners Ferry to adopt ordinances establishing land use standards, procedures and uses; and

WHEREAS, the Planning and Zoning Commission conducted a duly noticed public hearing on the proposed ordinance, in accordance with Local Land Use Planning Act, Title 67, Chapter 65 on _____, 2017, pursuant to the laws of Idaho; and,

WHEREAS, the Planning and Zoning Commission has recommended approval of; and,

WHEREAS, the City of Bonners Ferry City Council conducted a duly noticed public hearing on the proposed ordinance, in accordance with Local Land Use Planning Act, Title 67, Chapter 65 on _____, 2017, pursuant to the laws of Idaho; and

WHEREAS, the City Council desires to establish a chapter devoted to design standards for specific uses; and

WHEREAS, the City Council wishes to set forth the allowance and clarity of Home-Based businesses within residences in the city in order to promote a healthy economic base and provide better options for establishing businesses within city limits; and

WHEREAS, the City Council desired to redefined the definition of Home-Based businesses to align with new standards and provide for a definition of a zoning permit, and

WHEREAS, the City Council recognizes non-conforming structures were limited within the existing text for the allowed continuations, and

WHEREAS, the Mayor and City Council have determined that the proposed amendments to Title Eleven, Bonners Ferry City Code are in accord with the adopted comprehensive plan;

NOW THEREFORE, be it ordained by the Mayor and the Council of the City of Bonners Ferry, Idaho, as follows:

Section 1: That Bonners Ferry City Code Title 11, is hereby amended to read as follows:

New Text is shown with an underline.

Text that is removed is shown with a ~~striketrough~~.

Text with no change is shown, as is.

Section 1: TABLE OF CONTENTS FOR TITLE 11 CHANGES

1. Part A, Amendment to Title 11, Chapter 1 Definitions
2. Part B, Amendments to Title 11, Chapter 3 Non Conforming Structures and Uses
3. Part C, Amendments to Title 11, Chapter 9, Supplementary Regulations
4. Part D, Amendments to Title 11, Chapter 12 (NEW Chapter), Design Standards for Specific uses;
5. Part E, Amendment to Title 11, Appendix B, Residential and Commercial Use table

Highlighted text is for additional discussion.

Part A:

Bonners Ferry City Code Title 11, Chapter 1, Section 3, "Definitions," is hereby amended to strike in its entirety the definition of "Home Occupation," and to amend the definition of "Home-based Business," to read as follows:

~~HOME BASED BUSINESS: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof and only minimally affects the uses permitted in the zone of which it is a part.~~
HOME BASED BUSINESS: Any use customarily conducted entirely within a dwelling and The use of a dwelling and/or its permitted accessory building for a craft, profession or service, carried on by the inhabitants thereof, which use which is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof and only minimally affects does not adversely affect the uses permitted in the zone of which it is a part.

~~HOME OCCUPATION: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof or does not adversely affect the uses permitted in the zone of which it is a part.~~

ZONING PERMIT: A permit that requires approval by the Administrator, including but not limited to, building permits, Administrative Reviews, Site Plans and/or Home Occupations, as applicable

Part B: Bonners Ferry City Code, Title 11, Chapter 3 Nonconforming Uses and Structures is hereby amended as follows:

11-3- 3: NONCONFORMING STRUCTURES:

Where a lawful structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity. Any structure or portion thereof may be altered to decrease its nonconformity.

B. A nonconforming structure or nonconforming portion of a structure destroyed by any means may be reconstructed so long as the reconstruction does not increase its nonconformity and reconstruction occurs within 1-year of its destruction.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district or zone in which it is located after it is moved.

D. No nonconforming portion of a structure may be enlarged or altered in any way which increases its bulk (such as lot area, open space, yards, lot coverage, height, impervious surface ratios and floor area ratios).

11-3-4: NONCONFORMING STRUCTURE AND USES IN COMBINATION:

If a lawful use of a structure or of structures and premises in combination exists at the effective date of adoption or amendment hereof that would not be allowed in the district under the terms of this title, the lawful use may be continued subject to the following conditions:

- A. No existing structure devoted to a use not permitted in the district in which it is located shall be enlarged, extended, constructed, reconstructed or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located, nor shall the intensity of such use be increased or extended, except that the city council, by a special permit in the case of an affirmative showing of undue hardship, may grant an extension or enlargement of a nonconforming use not exceeding twenty five percent (25%) of the ground area of the building.
- B. Any nonconforming use may be extended throughout any parts of a building that were obviously arranged or designed for such use at the time of adoption or amendment hereof, but no such use shall be extended to occupy any land outside such building.
- C. When a nonconforming use of a structure or a structure and premises in combination is discontinued or abandoned for a period of one year the structure or structure and premises in combination shall conform to the regulations specified by this title for the district in which such structure and land is located. See section [11-3-6](#) of this chapter for the procedure to continue the use of a nonconforming structure or combination of structure and premises.
- D. Any nonconforming building or structure damaged more than sixty percent (60%) of its then fair market value, exclusive of the foundations, at the time of damage by fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happening, but if less than sixty percent (60%) is damaged above the foundation, it may be restored, reconstructed or used as before, provided, that it may be done within six (6) months of such happening and be built of like or similar or better materials. This time may be extended upon application of the owner to the city for extenuating circumstances. (Ord. 504, 1-8-2008)

Part C: Bonners Ferry City Code, Title 11, Chapter 9 Supplemental Regulations is hereby amended as follows:

11-9-1: REGULATIONS:

The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the district use and area regulations appearing elsewhere in this act:

- A. Each part of a required yard shall be open to the sky, unobstructed by other buildings or structures.
- B. All single-family dwellings converted to multiple-family dwellings must conform to the following latest edition of the building code.
- C. No existing single-family dwelling may be so converted if it contains less than one thousand (1,000) square feet of livable floor area per individual household. (Ord. 504, 1-8-2008)

11-9-2: STRUCTURES PERMITTED ABOVE HEIGHT LIMITATIONS:

The building height limitations of this act shall be modified as follows:

- A. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, bell towers, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height above that allowed in the district in which they are located, if approved by the council.
- B. Public, semipublic or public service buildings, hospitals, sanitariums, schools or churches when permitted in a district may be erected to a height exceeding the height allowed in the district where they are located if approved by the council. (Ord. 504, 1-8-2008)

~~11-9-3: BULK STORAGE OF FLAMMABLE LIQUIDS AND GASES OR CORROSIVE MATERIALS, ABOVEGROUND AND FOR RESALE:~~

- ~~A. Will be located at least three hundred feet (300') from a residence, motel, or hotel, except for an owner's residence.~~
- ~~B. Will be erected with the written approval of the fire authority having jurisdiction.~~
- ~~C. Will have suitable loading and unloading spaces and off street parking facilities meeting the approval of the fire authority. (Ord. 504, 1-8-2008)~~

~~11-9-4: HOME OCCUPATIONS:~~

- ~~A. Only members of the family residing on the premises shall be engaged in such occupation.~~
- ~~B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty percent (20%) of the floor area of the dwelling unit shall be used in the conducting of the home occupation.~~
- ~~C. There shall be no change in the outside appearance of the building or premises showing visible evidence of the conduct of such home occupation.~~

~~D. No significant traffic shall be generated by such home occupation. "Significant traffic" shall be defined as more than twenty (20) vehicle trips per day.~~

~~E. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. (Ord. 504, 1-8-2008)~~

11-9-5: WRECKING YARD, IMPOUND YARD AND JUNKYARD:

~~A. A sight obscuring enclosure meeting the terms of this title shall be constructed parallel to and ten feet (10') back of the right of way line of any public street or highway for any auto wrecking yard and salvage yard.~~

~~B. Materials used and details of construction must be approved by the administrator. The decision of the administrator shall be guided by the need to preserve and protect the scenic and aesthetic values of the surrounding area, and to protect property value.~~

~~C. Will not store automobiles or junk in a manner that exceeds the height of fence.~~

~~D. Will have such landscaping that is appropriate with the surrounding area. (Ord. 504, 1-8-2008)~~

11-9-3: MANUFACTURED/MOBILE HOME SITING STANDARDS:

In all areas within the corporate limits wherein this code permits the location, occupation and use of single-family dwellings, manufactured and mobile homes meeting or exceeding the following specifications will be a permitted and authorized use subject to the following restrictions on the placement of said homes:

A. Manufactured homes shall be multi-sectional enclosing a space of not less than one thousand (1,000) square feet and when assembled on site, they shall not be less than twenty feet (20') both in length and width. They shall also either have been certified as having been constructed in accordance with the standards for certification of manufactured/mobile homes by the U.S. department of housing and urban development and manufactured/mobile home construction and safety standards, or if manufactured prior to June 15, 1976, have received a certificate of compliance from the administrator of the division of building safety of the state of Idaho that the structure meets the rehabilitation requirements of Idaho Code title 44, chapter 25.

B. Manufactured housing shall be installed in accordance with Idaho Code title 44, chapter 22, "Manufactured Housing Setup Code".

C. The manufactured home shall have a pitched attached roof with a slope of not less than three feet (3') in height for each twelve feet (12') in width.

D. The manufactured home shall have exterior siding and roofing material commonly used on residential dwellings and which is comparable to the predominant material used on the buildings in the area. The city officer charged with the approval of building will determine compliance with this provision.

E. The provisions of this chapter shall not permit manufactured homes or the lot upon which they are sited to follow any development standard, architectural requirements, and/or minimum size requirements, which are lower or less than that which is or would be applicable to a conventional single-family residential dwelling constructed on the same lot.

F. This chapter shall not apply to the regulation of manufactured/mobile homes situated or to be situated in manufactured/mobile home parks which the city has approved as a manufactured/mobile home park nor shall this apply to lands falling within an area defined as a historic district under Idaho Code 67-4607 nor shall this chapter be applied to modify or abrogate any recorded restrictive covenant applicable to any land within the jurisdiction of the city. (Ord. 504, 1-8-2008)

11-9-4: REMOVAL OF TRAFFIC HAZARDS:

It shall be the responsibility of the owner of real property to remove from his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. Sight obstructions shall be the "sight triangle" as defined in Idaho Code.

When the city engineer or his designee determines upon the basis of an engineering and traffic investigation that such a traffic hazard exists, the city engineer or his designee shall notify the owner and order that the hazard be removed within fifteen (15) days. (Ord. 504, 1-8-2008)

Part D:

Bonnars Ferry City Code Title 11, Chapter 12, is hereby added as follows:

CHAPTER 12: DESIGN STANDARDS FOR SPECIFIC USES

11-12-1: PURPOSE

The purpose of this chapter is to establish basic development standards consistent with the goals and policies of the comprehensive plan and to set specific conditions for various uses or areas within the City. The regulations set forth are adopted to serve, protect and promote the public health, safety and welfare and to preserve and enhance the aesthetic qualities of the city, while allowing for the orderly and efficient development of property in accordance with all state and federal regulations. All design standards require the Use is first provided for and allowed under Title 11, Appendix B, Table of uses.

11-12- : BULK STORAGE OF FLAMMABLE LIQUIDS AND GASES OR CORROSIVE MATERIALS, ABOVEGROUND AND FOR RESALE:

- A. Will be located at least three hundred feet (300') from a residence, motel, or hotel, except for an owner's residence.
- B. Will be erected with the written approval of the fire authority having jurisdiction.
- C. Will have suitable loading and unloading spaces and off street parking facilities meeting the approval of the fire authority. (Ord. 504, 1-8-2008)
- A. A City business license is required prior to the use commencing on the property.

11-12- : HOME-BASED BUSINESSES:

In order to provide additional employment opportunities for the economic health of the city, there are certain limited businesses, crafts, and professional uses that may be allowed within dwellings or structures accessory to the dwelling. The purpose of this section is to establish a process, standards and conditions for the home-based businesses to ensure that the residential character of the neighborhood is retained. Home-based businesses are divided into categories, Tier 1 and Tier 2. Tier 1 is a less intense use, as established by the standards of this section. The home-based businesses are subject to the following:

A. All home-based businesses shall meet the following standards:

1. There shall be no change in the outside appearance of the building or premises showing visible evidence of the conduct of such home-based business;
2. The use of the dwelling unit for the home-based business shall be clearly incidental and subordinate to its use for residential purposes by its occupants;
3. No significant traffic shall be generated by such home-based business. "Significant traffic" shall be defined as more than an average of twenty (20) vehicle trips per day or where otherwise demonstrated by the review process that additional traffic can be supported without detrimental effects to the neighborhood;
4. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;
5. Home-based business permits shall not be transferrable;
6. Allowances for home-based businesses in the various zoning districts are governed by the Residential Use Table of this title (§, Title 11, Appendix B);
7. Hours of operation shall be established by permit conditions, and shall be based upon the type of operations, use of machinery, traffic, and other factors that have the potential to affect the neighborhood.

B. Home-based businesses that are listed as "P" in the residential use table are permitted in the applicable zoning districts with the approval of an administrative zoning permit. Home-based businesses that are listed as "S" in the residential use table are subject to the special use permit application, procedures, and standards of this title.

C. Tier 1 home-based businesses shall conform to the following:

1. Only occupants residing on the premises shall be engaged in the home-based business.
2. There shall be no customers or clients permitted on site;
3. No home-based business shall create a need for parking beyond that required for the primary single-family residential use;

4. No on-premises sales shall be conducted in association with the home-based business;
5. A single, non-illuminated sign, not exceeding six (6) square feet shall be permitted;
6. There shall be no outside storage of materials, equipment, or other items associated with the home-based business;
7. Not more than an area equal to one-third of the floor area of the dwelling unit shall be used to conduct the home-based business.

D. Tier 2 home-based businesses shall conform to the following:

1. Customers or clients may be permitted, provided traffic generation does not exceed the maximum established by this section or conditions of approval.
2. On-premise sales of products associated with the Tier 2 home-based business may be permitted, such as handcrafted items and products associated with a service;
3. Up to two (2) persons who are not residents of the home may be employed in the home-based business;
4. Storage of items associated with the home-based business may be permitted outdoors, if screened from view from the right-of-way within an enclosed area;
5. Up to two (2) non-illuminated signs not exceeding a combined area of twenty-four (24) square feet may be permitted;
6. The maximum allowable area for the proposed home-based business shall be determined through the special use permit process;
7. One (1) Off street parking space per employee shall be required as part of the request.

E. Applications for home-based business listed as "P" (permitted uses) shall be processed by the administrator, who shall review the application for compliance with this section and may apply conditions of approval to assure the home-based business does not adversely affect the neighborhood. The administrator shall provide the applicant with a written decision. The final decision may be appealed pursuant to this title. An application for the permitted ("P") home-based business shall be submitted to the city, which shall include the following:

1. The name of the landowner/applicant;
2. Street address and parcel number for subject property;
3. Type of business, number of employees;
4. Anticipated traffic;
5. Site plan, showing location and size of proposed home-based business;
6. Statement describing proposed use and type of machinery to be used;

7. Applicable fees, as set forth by Resolution.
- F. Applications for home-based business listed as “S” (special uses) shall be processed as a special use permit pursuant to Chapter 5 of this title.
- G. The following uses are prohibited home-based businesses:
1. Repair and/or servicing, storing, or painting of automobiles, trucks, boats, RVs, motorcycles, and ATVs.
 2. Any use requiring sewage pre-treatment in accordance with the City of Bonners Ferry wastewater treatment regulations.

11-12- IN-HOME FAMILY DAYCARE

- A. Shall not exceed 6 children as defined within Appendix A of this Title;
- B. Applications for In-Home Family Daycare listed as “P” (permitted uses) within Appendix B of this Title shall be processed by the Administrator, who shall review the application for compliance with this Title and may apply conditions of approval to assure the In-Home Family Daycare does not adversely affect the neighborhood. The administrator shall provide the applicant with a written decision. The final decision may be appealed pursuant to this title.

An application for the permitted (“P”) home-based business shall be submitted to the city, which shall, at a minimum, include the following:

1. A City application form filled out and signed by both the applicant and the landowner;
 2. A plan of the site, drawn to scale, showing location of all existing and proposed buildings, parking and loading areas, traffic access and circulation, undisturbed areas, open spaces, landscaping, refuse and service areas, utilities, signs, yard and any fencing or other features peculiar to the operations of the use at the site.
 3. A parking plan that addresses adequate off-street parking that is designed consistent with Chapter 13 of this title.
 4. A fee, as set forth by resolution.
- C. Prior to commencement of the use the city shall receive an inspection report from the applicant indicating the City Fire Department, has reviewed the site against the applicable International Fire Code and state fire marshal standards for daycares. Written proof of the satisfactory completion of this condition shall be provided by the applicant to the city.

11-12- : WRECKING YARD, IMPOUND YARD AND JUNKYARD:

- A. A sight obscuring enclosure meeting the terms of this title shall be constructed parallel to and ten feet (10') back of the right of way line of any public street or highway for any auto wrecking yard and salvage yard.

- B. Materials used and details of construction must be approved by the administrator. The decision of the administrator shall be guided by the need to preserve and protect the scenic and aesthetic values of the surrounding area, and to protect property value.
- C. Will not store automobiles or junk in a manner that exceeds the height of fence.
- D. Will have such landscaping that is appropriate with the surrounding area. (Ord. 504, 1-8-2008)

Part E:

Bonnors Ferry City Code Title 11, Appendix B, “Table of Uses” is hereby amended to strike the Home Occupation Use and Home Based Business and add Tier 1 and Tier 2 Home-based business to the use table; to strike childcare family daycares and provide for Childcare, In-home family daycares and to provide standards applicable to Title 11, Chapter 12 in the opening paragraph as follows:

TABLE OF USES

OFFICIAL SCHEDULE OF DISTRICT REGULATIONS

(P= Permitted uses; S= Special Uses; [Blank] = Not Allowed)

Any use as proposed in the table below shall also be required to follow any supplementary and standards regulations as provided for within this title and specifically where provided for at chapter 9 or Chapter 12 of this title.

Those uses not specifically provided for are therefore prohibited, unless in conformance with this title.

<u>Residential Use Table</u>	<u>Zoning Districts</u>						
	<u>AA</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>I</u>	<u>M</u>	<u>D</u>
Home based business	S	S	S	P	P	S	P
Home occupation	P	P	P	P	P	P	P
Home-Based Business <u>Tier 1</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Home-Based Business Tier 2</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>S</u>	<u>P</u>

<u>Commercial Use Table</u>	Zoning Districts						
	AA	A	B	C	I	M	<u>D</u>
Childcare – family daycare (6 or fewer) –	S	S	S	P	-	S	S
Childcare, In-Home Family Daycare, (6 or fewer)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Section 3: SAVING CLAUSE. All ordinances repealed by this ordinance, shall be remain in force to authorize the enforcement, arrest, prosecution, conviction or punishment of a person who violates said ordinances prior to the effective date of this Ordinance.

Section 4: PROVISIONS SEVERABLE: The provisions of this Ordinance are hereby declared to be severable and if any provision of this Ordinance or application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Ordinance.

Section 5: REPEALS. [is this necessary with codification?]

Section 4: EFFECTIVE DATE: This ordinance shall be effective upon its passage and publication in the manner provided by law.

APPROVED by the Mayor and City Council of the City of Bonners Ferry this _____ day of _____, 2017.

CITY OF BONNERS FERRY, IDAHO

BY: _____
Mayor

Attest:

Clerk, City of Bonners Ferry